

**CASE NO. 16-2297**

**UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

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THE COMMITTEE TO PRESERVE THE RELIGIOUS RIGHT TO ORGANIZE,

Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

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NATIONAL LABOR RELATIONS BOARD

CASE NO.: 20-CA-139745; 363 NLRB NO. 195

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**UNOPPOSED MOTION TO INTERVENE**

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Ron Chapman, Jr.  
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
8117 Preston Road, Suite 500  
Dallas, TX 75225  
Phone: 214-36-9216  
Facsimile: 214-987-3927  
ron.chapman@ogletreedeakins.com

Christopher C. Murray  
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
111 Monument Circle, Suite 4600  
Indianapolis, IN 46204  
Phone: 317-916-1300  
Facsimile: 317-916-9076  
christopher.murray@ogletreedeakins.com

Counsel for Proposed Intervenor,

**HOBBY LOBBY STORES, INC.**

Pursuant to Federal Rule of Appellate Procedure 15(d), **HOBBY LOBBY STORES, INC. (“Hobby Lobby”)**, by counsel, respectfully moves the Court without opposition to permit it to intervene in the above-referenced appeal. In support, Hobby Lobby states:

1. This appeal was filed by the Committee to Preserve the Religious Right to Organize (“Committee”). It is one of several pending appeals arising from the National Labor Relations Board’s (“Board’s” or “NLRB’s”) decision in *Hobby Lobby Stores, Inc.*, Case 20-CA-139745, 363 NLRB No. 195 (May 18, 2016). *See also Hobby Lobby Stores, Inc. v. NLRB*, No. 16-3162 (7th Cir. Aug. 12, 2016) (Hobby Lobby’s petition for review); *NLRB v. Hobby Lobby Stores, Inc.*, No. 16-3271 (7th Cir. Aug. 25, 2016) (NLRB’s cross-application for enforcement).

2. On August 3, 2016, this Court denied the Board’s motion to dismiss the Committee’s petition. Order, No. 16-2297 (7th Cir. Aug. 3, 2016). Because Hobby Lobby had filed its petition for review in the Fifth Circuit, the Court ordered the Board to notify the Judicial Panel on Multidistrict Litigation that two petitions for review had been filed in different Courts of Appeals pursuant to the provisions of 28 U.S.C. § 2112(a)(3). *Id.* That panel designated this Court for consolidation of the petitions.

3. Following the transfer of Hobby Lobby’s petition to this Court and the Board’s filing its application for enforcement, all three appeals have now been consolidated for purposes of briefing and disposition. *See* Order, Nos. 16-2297, 16-3162, and 16-3271 (7th Cir. Aug. 30, 2016).

4. Although the Committee, which was the charging party below, and Hobby Lobby, which was the charged party, both petition this Court to review the Board’s decision, their interests are divergent. *Cf. United States v. Torres*, 170 F.3d 749, 750 (7th Cir. 1999) (noting that parties on the same side of an appeal can have divergent interests). The Committee challenges

the Board's decision because the Board rejected certain allegations and theories raised in the Committee's charge. Hobby Lobby challenges the Board's decision because the Board found in favor of the Committee under certain theories.

5. The Committee has already intervened in the appeal filed by Hobby Lobby. *See* Order, No. 16-60312 (5th Cir. June 8, 2016) (granting Committee's unopposed motion to intervene).

6. Hobby Lobby respectfully moves to intervene in this appeal filed by the Committee. To the extent the Board rejected the Committee's allegations and theories, Hobby Lobby has an interest in supporting this Court's affirmation of that portion of the Board's decision. *See Int'l Union, United Auto., Aerospace & Agr. Implement Workers of Am. AFL-CIO, Local 283 v. Scofield*, 382 U.S. 205, 208 (1965) (concluding "Congress intended to confer intervention rights upon the successful party to the Labor Board proceedings in the court in which the unsuccessful party challenges the Board's decision").

7. Hobby Lobby is mindful of the Court's admonition that parties are to avoid duplicative briefing. Hobby Lobby respectfully submits that by intervening in the Committee's appeal, it will be able to provide the Court alternative, non-duplicative arguments that may not otherwise be presented by the Board in response to the Committee's petition.

8. The undersigned counsel for Hobby Lobby has consulted with counsel for the Board and the Committee and is authorized to state this motion is unopposed.

WHEREFORE, Hobby Lobby respectfully moves without opposition to intervene in case number 16-2297 in support of the Board's decision to the extent it rejected certain of the Committee's claims and theories.

Dated: September 6, 2016

Respectfully Submitted

s/Christopher C. Murray

Ron Chapman, Jr.

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

8117 Preston Road, Suite 500

Dallas, TX 75225

Phone: 214-36-9216

Facsimile: 214-987-3927

ron.chapman@ogletreedeakins.com

Christopher C. Murray

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

111 Monument Circle, Suite 4600

Indianapolis, IN 46204

Phone: 317-916-1300

Facsimile: 317-916-9076

[christopher.murray@ogletreedeakins.com](mailto:christopher.murray@ogletreedeakins.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on September 6, 2016, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that the foregoing document will be served via the CM/ECF system on the following counsel, who is a registered CM/ECF user.

David A. Rosenfeld  
Weinberg Roger & Rosenfeld  
1001 Marina Village Parkway, Suite 200  
Alamenda, California 94501

Linda Dreeben  
Deputy Associate General Counsel  
NATIONAL LABOR RELATIONS BOARD  
1015 Half Street, SE  
Washington, DC 20570

/s/Christopher C. Murray  
Christopher C. Murray  
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
111 Monument Circle, Suite 4600  
Indianapolis, IN 46204  
Phone: 317-916-1300  
Facsimile: 317-916-9076  
[christopher.murray@ogletreedeakins.com](mailto:christopher.murray@ogletreedeakins.com)